

WORKPLACE REVIEW

Volume 9, Number 3

Summer 2019

EDITORIAL – *General Editor: Neil Napper* 101

ARTICLES

The Doctrine of Implied Intergovernmental Immunities: A Recrudescence?

– *Thomas Dixon*

The essential and distinctive feature of “a truly federal government” is the preservation of the separate existence and corporate life of each of the component States concurrently with that of the national government. Accepting that a number of polities are contemplated as coexisting within a federation does not, however, address the fundamental question of how legislative and executive powers are to be allocated among the constituent constitutional units inter se, nor the extent to which the various polities are immune from interference occasioned by their constitutional counterparts. These “federal” questions are fundamental as they ultimately define the prism through which one views the Constitution. Shifts in the lens have resulted in significant ramifications for intergovernmental relations. This article traces the development of the Melbourne Corporation doctrine in Australia, and undertakes a comparative analysis with the development of the cognate jurisprudence in the United States. Analysis is undertaken of the major Australian industrial relations decisions, such as the *Amalgamated Society of Engineers v Adelaide Steamship Co Ltd*, *Re Australian Education Union*; *Ex parte Victoria, Queensland Electricity Commission v Commonwealth*, and *United Firefighters Union of Australia v Country Fire Authority*, in this context. 103

Is There Such a Thing as “Free Speech” for Australian Employees? – Neil Napper

It is commonly assumed that in democratic Australia freedom of speech is unbounded, but is that the case? In this article, Neil Napper reminds us that it is a limited freedom subject to the constraints of the law. With particular reference to recent cases such as the *Folau and Banerji* litigation, Napper considers the operation of the freedom in the employment context. His conclusions are sobering: freedom of speech at work is “a highly fragile, contingent concept”. 125

Welcome to the Age of Keyboard Warriors – Lachlan Robison

Lachlan Robison considers the emergence of the “Online Court”, expressing scepticism about its claims to greater efficiency in the disposal of litigation matters while praising the virtues of in-person courtroom appearances for the development of lawyers’ skills. 139

INTERVIEW

Paul Munro: For “The Greatest Good ...” – Craig Ryan 141

CASE NOTE

“Free Speech ... But Be Careful What You Say!” – Joshua Graffi 149

OBITUARY

Robert James Lee Hawke – *Robert McClelland* 153

BOOK REVIEWS

Tiberius with a Telephone: The Life and Stories of William McMahon, by Patrick Mullins – *Reviewed by Malcolm Kerr OAM* 154

Born at the Right Time: A Memoir, by Professor Ron McCallum AO – *Reviewed by Philip Sutherland* 156

THE LAST WORD 158

DIARY 161

INDEX 163